



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Applicators, Inc.

File: B-270162

Date: February 1, 1996

Joseph H. Kasimer, Esq., Kasimer & Ittig, for the protester.
Christopher M. Kerns for Fort Myer Construction Corporation, the intervenor.
Gregory H. Petkoff, Esq., and Jean M. Redzikowski, Esq., Department of the
Air Force, for the agency.
Henry J. Gorczycki, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision., for the protester.

DIGEST

Award to bidder submitting the lowest base bid is proper, even though that bid is not the lowest aggregate bid inclusive of an additive item, where the available funds are sufficient to cover only the base bid.

DECISION

Applicators, Inc. protests the award of a contract to Fort Myer Construction Corporation under invitation for bids (IFB) No. FA4416-95-B-A063, issued by the Department of the Air Force for the construction of a parking lot and drainage for Hangar 11 at Andrews Air Force Base, Maryland.

We deny the protest.

The IFB bid schedule, as amended, sought bid prices for contract line items numbers (CLIN) 0001 and 0002—identified as the base bid for the construction of the parking lot—and for CLINs 0003AA, 0003AB, and 0004—which together are identified as an additive item for construction of drainage. The IFB incorporated by reference the provision at Defense Federal Acquisition Regulation Supplement (DFARS) § 252.236-7007, “Additive or Deductive Items (Dec 1991),” which states in pertinent part:

“(a) The low offeror and the items to be awarded shall be determined as follows--

- (1) Prior to the opening of bids, the Government will determine the amount of funds available for the project.

(2) The low offeror shall be the [o]fferor that--

(i) Is otherwise eligible for award; and

(ii) Offers the lowest aggregate amount for the first or base bid item, plus or minus (in the order stated in the list of priorities in the bid schedule) those additive or deductive items that provide the most features within the funds determined available.

(3) The [c]ontracting [o]fficer shall evaluate all bids on the basis of the same additive or deductive items.

(i) If adding another item from the bid schedule list of priorities would make the award exceed the available funds for all offerors, the [c]ontracting [o]fficer will skip that item and go to the next item from the bid schedule of priorities; and

(ii) Add that next item if an award may be made that includes that item and is within the available funds.”

Funding in the amount of \$658,000 was budgeted for the entire project.

Bids were received from five bidders. Fort Myer submitted the lowest base bid of \$644,170, while Applicators’s base bid of \$722,840 was next lowest. Considering the additive item, Applicators submitted the lowest aggregate bid of \$1,247,089; Fort Myer’s aggregate bid of \$1,258,320 was next lowest. The Air Force advised Applicators at bid opening that it was the apparent low bidder based on the aggregate bid prices.

Upon subsequent review, the Air Force determined that all of the aggregate bid prices exceeded the budgeted funding amount of \$658,000. Since funding available for the procurement was insufficient to cover both the base bid and additive item, the Air Force determined that award would be made only for the base bid. As noted above, Fort Myer submitted the low base bid.

Prior to award but subsequent to bid opening, the Air Force learned that additional funds were available for the procurement which increased the funding available to \$1,168,470. The Air Force determined that the increased funding was still insufficient to allow award of the entire additive item; however, the agency determined that a portion of the additive item (CLIN 0003AA) could be awarded within the funding amount. Considering the bidder's prices for CLIN 0003AA, Fort Myer’s bid of \$926,170 remained low, while Applicators’s bid of \$1,007,506 was

second low. The Air Force awarded a contract for the base bid and CLIN 0003AA to Fort Myer. This protest followed.

Applicators argues that the agency did not determine the amount of funds available for the project prior to bid opening, as required by DFARS § 252.236-7007, and that the agency improperly split the additive item after bid opening. Applicators contends that it should have received the award upon the basis of its low aggregate bid price.

In response to the protest, the Air Force agrees that it incorrectly split the bid's additive item. The Air Force has informed us that it will terminate the work associated with CLIN 0003AA from the contract to Fort Myer and resolicit for the drainage work. Applicators has not protested this action; thus, the remaining issue for our review is whether the agency's award selection should have been based on the base bids only or the aggregate bids inclusive of the entire additive item.

The IFB provided that the low bidder would be determined using the available funding amount as the upper limit for determining whether a bid price may be qualified for award; specifically, the low bid is the lowest aggregate bid price that includes the base bid and only those additive items that can be added to the base bid and still be within the funding limitation. DFARS § 252.236-7007(a); J.C.N. Constr. Co., Inc., B-250815, Feb. 23, 1993, 93-1 CPD ¶ 166; see Utley-James, Inc., B-198406, June 16, 1980, 80-1 CPD ¶ 417 (base bid excluding all additive items is the basis for determining low bid where all bids exceed available funding). Here, all bids inclusive of the additive item exceed the available funding. The additive item thus cannot be used to determine the low bid. Since Fort Myer's base bid, which was below the funding limit, was the lowest base bid submitted, Fort Myer was the low bidder and the award on that basis is proper. See J.C.N. Constr. Co., Inc., supra.

In response to the protester's allegation that the funding limit was not determined prior to bid opening, the agency provided contemporaneous documentation from the contract file showing that the amount of \$658,000 was budgeted prior to the issuance of the IFB. The protester received a copy of this document and has not challenged it. The record thus shows that the Air Force properly determined the amount of funding available for this project prior to bid opening consistent with the terms of the provision at DFARS § 252.236-7007(a)(1). See Gartrell Constr., Inc., U.S. Floors, Inc., B-237032; B-237032.2, Jan. 11, 1990, 90-1 CPD ¶ 46; Sammy Garrison Constr. Co., Inc., B-215453, Nov. 21, 1984, 84-2 CPD ¶ 545.

The protest is denied.

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